

**BOARD OF ENVIRONMENTAL REVIEW  
AGENDA ITEM**

**EXECUTIVE SUMMARY FOR ACTION ON RULE ADOPTION**

**Agenda # III.B.2**

**Agenda Item Summary:** In response to a request from the Board, the Department worked with interested parties in preparing a draft air quality rule that would allow the maintenance of air pollution control equipment while a primary aluminum reduction plant is operating, without requiring the plant to receive a variance from the Board before each period of maintenance.

**List of Affected Rules:** The new rule would be codified as part of the air quality rules in ARM Title 17, chapter 8. The rule would affect compliance with numerous air quality rules, including: ARM 17.8.111, which prohibits circumvention of pollution control equipment; ARM 17.8.302 and 342, which adopt and incorporate by reference the National Emission Standards for Hazardous Air Pollutants (NESHAPS) and Maximum Achievable Control Technology (MACT) standards for primary aluminum reduction plants; ARM 17.8.304, which specifies general limits on visible emissions from most air pollutant sources; ARM 17.8.331, the fluoride standard for existing aluminum plants; ARM 17.8.332, the visible emission standard for existing aluminum plants; and ARM 17.8.715(2), which requires operation of all equipment for the maximum air pollution control for which it was designed.

**Affected Parties Summary:** New Rule I would affect the Columbia Falls Aluminum Company, Columbia Falls, MT.

**Scope of Proposed Proceeding:** The Department requests that the Board adopt New Rule I and submit the new rule to the U.S. Environmental Protection Agency (EPA) for approval as a revision to the air quality State Implementation Plan (SIP).

**Background:** In a letter to the Board dated August 7, 2000, regarding Columbia Falls Aluminum Company's (CFAC's) request for a temporary variance from air quality rules to conduct maintenance on air pollution control equipment while continuing operation of the plant, CFAC requested that the Department "look into developing a regulation that would allow CFAC to legally maintain its aluminum plant air pollution control equipment."

Several states have such rules. The draft rule prepared by the Department was modeled on the Oregon paradigm. In preparing this draft, Department staff worked with representatives of CFAC, a representative of the Montana Environmental Information Center, and the Board's attorneys, Kelly O'Sullivan and Thomas Bowe.

New Rule I would state that the Department may not initiate an enforcement action for a violation of any applicable emission standard for necessary scheduled air pollution control equipment maintenance if the maintenance event is conducted during the month of September during specified hours (due to computer modeling demonstrating that, during that time, PM-10 emissions would not cause an exceedance of the 150 µg/m<sup>3</sup> ambient air quality standard), the

facility submitted a maintenance plan that the Department approved, and the facility complied with the requirements of the approved maintenance plan.

The proposed rule would protect state and federal ambient air quality standards by stating that: "Nothing in this rule shall be construed to allow an owner or operator to cause or contribute to violations of any federal or state ambient air quality standard."

**Hearing Information:** Thomas Bowe conducted a public hearing on May 23, 2002, on the proposed adoption of the new rule and on submission of the proposed new rule to EPA as a proposed revision to the SIP. The Board received written comments. The comments and the Department's proposed responses are included, respectively, with the Hearing Officer Report and the draft Notice of Adoption attached to this executive summary.

**Board Options:** The Board may:

1. Adopt the proposed new rule as set forth in the attached Notice of Public Hearing on Proposed Adoption;
2. Adopt the proposed new rule with such revisions as the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Adoption and the record in this proceeding; or
3. Decide not to adopt the proposed new rule.

**DEQ Recommendation:** Because the Department believes that CFAC had sufficient time during its recent shutdown to perform maintenance on the control equipment that would be adequate for the foreseeable future, the Department still questions the need for the proposed rule. If the Board determines that a rule is necessary, the Department believes this rule would best accomplish the Board's stated goals and supports its adoption.

**Enclosures:**

1. Notice of Public Hearing on Proposed Adoption;
2. Hearing Officer Report; and
3. Draft Notice of Adoption.